

5/17D 53

~~CONFIDENTIAL~~February 6th, 1959COCOM Document No. 2869.80COORDINATING COMMITTEE

5 General

RECORD OF DISCUSSIONONREVISION OF THE STRATEGIC EXPORT CONTROLS - ADMINISTRATIVE PRINCIPLE NO. 3.January 26th, 1959

Present: Belgium(Luxembourg), Canada, Denmark, France, Germany, Italy, Japan, Netherlands, United Kingdom, United States.

References: COCOM 2408, 2869.5, 2869.55, 2869.57, 2859.61, 2869.64, 2869.72, 2869.73, 2869.76 and Secretariat Paper No. 102.

1. The CHAIRMAN recalled that it had been decided to leave the other Administrative Principles practically as they were and that a great deal of time had already been spent in trying to find a revised wording of Administrative Principle No. 3 which would find unanimous acceptance in the Committee. At the meeting of December 17th the Italian Delegate had made a compromise proposal on a personal basis (COCOM 2869.76 paragraph 6) and the Italian authorities had endorsed this proposal on January 8th (COCOM 2869.76 paragraph 26). He invited Delegates to give the views of their authorities on this compromise proposal.

2. The UNITED STATES Delegate said that his authorities had been ardent supporters of the original United Kingdom proposal and were disappointed that it had not met with unanimous approval. They felt that the Italian proposal, which had been put forward in a very constructive spirit, was the best which now remained in active status before the Committee and, although they had previously made reservations when comparing it with the United Kingdom proposal, they now supported it and urged its adoption by the Committee, without prejudice to further consideration of the United Kingdom proposal at a later time.

3. The FRENCH Delegate recalled that he had doubted that his authorities would be able to accept the Italian proposal and, although he thanked the Italian Delegation for the spirit in which they had put forward their proposal, he now had firm instructions that any special list such as the one referred to in the Italian proposal was quite unacceptable to the French Government. He and a number of other Delegates had recently been informed bilaterally of the United Kingdom attitude, which he interpreted as no longer insisting on the inclusion of a special list. In those circumstances, he considered it appropriate to continue with the present Principle without modification.

4. The UNITED KINGDOM Delegate said that when the discussion on Administrative Principle No. 3 had begun some months ago his authorities had argued that there was a gap in the present control system and the only effective method of closing it was with a special list of items. They still held the same opinion but since the opposition in the Committee had been firm and by no means isolated they therefore recognised the fact that the Committee were not likely to accept their proposal at present and they would not insist upon it for the time being. The Delegate reserved the right to reintroduce the same or a similar proposal at a later date. Referring then to the Italian compromise proposal, he said that his authorities much appreciated the spirit in which it had been put forward but they did not feel that it provided

~~CONFIDENTIAL~~

a satisfactory solution. They did not oppose the Italian text but they wanted to leave the next step to the Committee and would not stand in the way of the proposal if it were found to be unanimously acceptable.

5. The NETHERLANDS Delegate stated that his authorities had considered the Italian proposal very carefully and appreciated the spirit in which it had been made. There was, however, no change in their position and they preferred to leave Administrative Principle No. 3 unchanged.

6. The BELGIAN Delegate said that his authorities were of the opinion that if statistical information were to be given to the Committee after an export had taken place, as proposed by the Italian Delegation, this would involve reference to a special list of items. Although appreciating the effort made by the Italian Government, the Belgian authorities remained opposed to the principle of a special list and would rather see Administrative Principle No. 3 continue unchanged.

7. The GERMAN Delegate confirmed his previous agreement to the Italian proposal. His authorities still felt that the United Kingdom proposal would have been more effective since it was linked with prior consultation on critical items but in their opinion the Italian proposal would still be an improvement on the present wording of Administrative Principle No. 3. The Delegate noted that the United Kingdom authorities would not object to the Italian proposal if it were unanimously accepted in the Committee. The German authorities insisted on the importance of uniform treatment. The United Kingdom proposal and even the compromise suggested by the Italian Delegation would contribute to assure a uniform application of Administrative Principle No. 3 as far as the items on the United Kingdom list were concerned. The German authorities had always insisted on the importance of such a uniformity. The Delegate asked the Committee to consider the Italian proposal in this spirit.

8. The JAPANESE Delegate said that his position was the same as that of the United Kingdom Delegation. The Japanese authorities appreciated the Italian proposal but they felt that it omitted the most important part of the United Kingdom proposal. In their opinion it would be better to leave Administrative Principle No. 3 unchanged.

9. The DANISH Delegate said that his position was the same as that of his German colleague. He had supported the United Kingdom proposal but he could accept the compromise put forward by the Italian Delegation as a better solution than no provision at all in this field.

10. The FRENCH Delegate thanked the German Delegate for having expounded the problem facing the Committee. The French authorities certainly agreed that the principle of uniformity in the application of the control system was indispensable to its efficient working. The French Delegation had already pointed out (COCOM 2869.72 paragraph 12) that Administrative Principle No. 3 had worked satisfactorily for a number of years and the Delegate wished to stress this point again. No difficult cases had arisen over the application of this Principle. The French authorities and other Members of the Committee thought that each Member Country should exercise its own judgement in authorising exports within the framework of Administrative Principle No. 3. The discretion of the national control authorities was a part of each Member Country's sovereignty which the French Government did not wish to relinquish, although there was always the possibility of referring applications to the Committee in case of doubt. The Delegate emphasised once more that an inter-ministerial committee, on which there were highly qualified experts from the Ministry of National Defence, considered carefully each export licence application to see whether Administrative Principle No. 3 applied to the envisaged export. This committee had refused many more licences than it had granted within the framework of Administrative Principle No. 3 and this was a guarantee of the sound application of the Principle. The French authorities were satisfied with the present text, which they saw no reason to amend.

~~CONFIDENTIAL~~

- 3 -

COCOM Document No. 2869.80

11. The CANADIAN Delegate said that he had no instructions to accept the Italian proposal or to modify his original position, which had been one of support for the United Kingdom proposal. His authorities were openminded until the United Kingdom raised the question again.
12. The ITALIAN Delegate thanked the Danish, German and United States Delegates for the support they had given his compromise proposal. Since the proposal was based on the principle of a special list, however, which had proved unacceptable to the Committee and in view of the statement made by the United Kingdom on their original proposal, his authorities would not insist upon their attempt at compromise. Referring to the comment made by the Japanese Delegate, he emphasised that the Italian proposal would have permitted comments to have been made on exports which had taken place and would have stressed the uniformity of treatment.
13. The CHAIRMAN said that since there was no proposal for the revision of Administrative Principle No. 3 which was likely to be unanimously accepted in the Committee he therefore proposed to proceed with a limited review of the present text of Administrative Principle No.3. He recalled that there was already general agreement on some points and he would take as a basis the text recorded in paragraph 10 of COCOM 2869.73. There was the German reservation on the inclusion of the phrase "in particular" and a United States reservation on the use of "a principal element" as opposed to "the principal element".
14. The UNITED KINGDOM Delegate said that he was prepared to drop his proposal to insert the phrase "in particular" since some Members of the Committee thought that this would give undue stress to the second part of the Principle. He still wanted the word "a" to be changed to "the" before the phrase "principal element" because the use of the definite article concentrated attention on the United Kingdom understanding that the component in question was the determining element, that which gave the item its particular character. There could hardly be more than one principal element.
15. The ITALIAN Delegate said that he could agree to the phrase "the principal element", but he did not yet have definite instructions on the substance of the problem.
16. The GERMAN Delegate said that he was grateful to the United Kingdom authorities for not insisting on the insertion of the phrase "in particular" because in his interpretation that could have been interpreted in the sense that the export of all non-embargoed items containing embargoed components should be prohibited. He thought that the word "the" narrowed the wording of the Principle but would raise no objection if it were unanimously accepted.
17. The CHAIRMAN summed up the discussion by urging all Delegations to try to obtain their authorities' agreement to the text of Administrative Principle No. 3 as recorded in paragraph 10 of COCOM 2869.73.
18. The COMMITTEE agreed to continue the discussion on February 5th.

~~CONFIDENTIAL~~